

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
KNOXVILLE DIVISION

BITUMINOUS CASUALTY  
CORPORATION,

Plaintiff,

v.

Case No: 3:09-cv-00060

(VARLAN/SHIRLEY)

WALDEN RESOURCES, LLC, AMWES  
EXPLORATION, LLC, DANIEL POTTS,  
ZTX DRILLING, LLC, JONATHAN D.  
VANN, LEXINGTON INSURANCE  
COMPANY, NATIONAL POLLUTION  
FUNDS CENTER, UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY, WILD WELL CONTROL, INC.,  
MARLOW VOLUNTEER FIRE  
DEPARTMENT, SUPERIOR WELL  
SERVICES, INC., GRIFFITH SERVICES,  
LLC, BLOWOUT TOOLS, INC.,  
UNIVERSAL WELL SERVICES, INC.,  
MILLER PETROLEUM, INC., FAY  
PORTABLE BUILDINGS, INC.,  
ENGINEERING CONSTRUCTION  
SERVICES, INC., DIG IT UP  
EXCAVATION CO., VOLUNTEER  
TRENCHING, BILLINGS CRANE &  
MECHANICAL, INC., B. J. SERVICES  
COMPANY, NORTH EAST MUD  
SERVICES COMPANY, LLC, L&D WELL  
SERVICE, EAST TENNESSEE  
CONSTRUCTION, QUALITY SUPPLY,  
BRAD PENNINGTON, ROBERT KELLY,  
DEBRA KELLY, AND CLIFFORD N.  
HENDERSON, JR.,

Defendants.

AGREED ORDER OF DISMISSAL AS TO DEFENDANT  
BILLINGS CRANE & MECHANICAL, INC.

It appearing to the Court from the signatures hereto that:

1. As set forth in the complaint for declaratory judgment, interpleader and permanent injunctive relief filed in this action, Billings Crane & Mechanical, Inc. was joined pursuant to 28 U.S.C. § 2201, Rule 57 of the Federal Rules of Civil Procedure, 28 U.S.C. § 1335 and Rule 22 of the Federal Rules of Civil Procedure, in that Bituminous Casualty Corporation felt that pursuant to the Declaratory Judgment Act and Federal Interpleader Act Billings Crane & Mechanical, Inc. might be affected by the declarations made by this Honorable Court, and based upon the desire of Bituminous Casualty Corporation that Billings Crane & Mechanical, Inc. be bound by the declarations made by this Honorable Court as to the issues raised in this action;

2. Billings Crane & Mechanical, Inc. has reviewed the complaint for declaratory judgment, interpleader and permanent injunctive relief, and the issues raised therein;

3. Billings Crane & Mechanical, Inc. affirmatively states that its claim has been paid, that it asserts no interest in the determinations requested in the complaint for declaratory judgment, interpleader and permanent injunctive relief, and that it agrees that it will not contest the declarations sought by Bituminous Casualty Corporation in the complaint for declaratory judgment, interpleader and permanent injunctive relief; and

4. Consequently, Bituminous Casualty Corporation and Billings Crane & Mechanical, Inc. have agreed that Billings Crane & Mechanical, Inc. may be dismissed from this case without prejudice and need not participate further in this litigation.

Based upon the representations contained herein, this Court dismisses Billings Crane & Mechanical, Inc. from this matter upon the representations that it will claim no interest under the Declaratory Judgment Act and Federal Interpleader Act in the outcome

of the determinations sought by Bituminous Casualty Corporation in the complaint for declaratory judgment, interpleader and permanent injunctive relief.

ENTERED this 16<sup>th</sup> day of April, 2009.

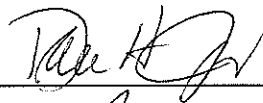
s/ Thomas A. Varlan  
~~JUDGE~~ STATES DISTRICT JUDGE

**APPROVED FOR ENTRY BY:**

s/ Benjamin J. Miller  
**PARKS T. CHASTAIN**  
Registration No. 13744  
**BENJAMIN J. MILLER**  
Registration No. 025575  
Attorneys for Plaintiff, Bituminous Casualty Corporation

**BREWER, KRAUSE, BROOKS,  
CHASTAIN & BURROW, PLLC**  
P. O. Box 23890  
Nashville, TN 37202-3890  
(615) 256-8787

**BILLINGS CRANE & MECHANICAL, INC.**

By:   
Title: PRESIDENT